HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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Writ Petition No. 25540 of 2003

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Dated: 30th August, 2005

Between:

M.Muthaiah S/o.Durgaiah, R/o.H.No.2-3-32,

Vivekananda Nagar, Kukatpally, Ranga Reddy District.

..... PETITIONER

AND

1.The Joint Collector, Ranga Reddy District

177, Khairatabad, Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.25540 of 2003

ORDER:

This writ petition has been filed by M.Muthaiah assailing the order passed by the Joint Collector, Ranga Reddy District, at Hyderabad in Case No.D5/5312/1995 dated 02.03.2002.

2. One S.Venkatachari initiated proceedings before the Mandal Revenue Officer, Serilingampally Mandal under Section 5(A) of the Andhra Pradesh Records of Rights in Land Amendment Act, 1989 (for short, 'the Act') for regularization of agreement of sale dated 16.12.1975. His case before the Mandal Revenue Officer, Serilingampally Mandal was that he purchased Ac.0.33 guntas in Survey No.59 of

Gachibowli village from Manikonda Muthaiah under an agreement of sale dated 16.12.1975. The Mandal Revenue Officer after issuing notice to the petitioner and after following due procedure contemplated under the Act passed orders on 30.04.1992 regularizing the sale document with effect from 24.04.1984. Assailing the order of the Mandal Revenue Officer, Serilingampally Mandal, the petitioner filed an appeal before the Revenue Divisional Officer, Chevella Division, Ranga Reddy District. The appellate authority on considering the material on record and on hearing counsel of both the parties, allowed the appeal and set aside the order passed by the Mandal Revenue Officer, Serilingampally Mandal. The relevant portion of the order passed by the appellate authority reads as follows:

> "I hold that the sale agreement of 1975 is genuine because of the fact that the appellant has received further amount of Rs.10,000/- from the respondent on the plea that he failed to pay the balance amount of Rs.350/- within the stipulated time and entered into a fresh agreement of sale for the suit land. It evident that for the alienation of suit land, the appellant and respondent entered into agreement of sale for two time, even though the document has no validity in view of the Section 5(a) of the A.P.ROR Act, 1971 as amended by Act 1/89.
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> In view of the above, primarily the Section 5(a) of the A.P.ROR Act prohibits regularization of agreement of sale except sale deeds. In this particular case, the transaction between the parties are not fair transactions, for entering into fresh agreement of sale by the respondent, automatically cancel the earlier agreement and the action of Lower Court in regularizing on the receipt of Rs.10,000/- out of Rs.15,000/- by the appellant does not establish that the agreement of sale come to a final conclusion. Hence, I set aside the Lower Court order dated 30.04.1992 while allowing the appeal."

Questioning the order of the Revenue Divisional Officer, Chevella Division, Ranga Reddy District, S.Venkatachary filed a revision before the Joint Collector, Ranga Reddy District under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. The Revisional Authority by Order dated 02.03.2002 set aside both the orders of the Revenue Divisional Officer, Chevella Division and the Mandal Revenue Officer, Serilingampally Mandal and remanded the matter back to the Mandal Revenue Officer, Serilingampally Mandal for *de novo* enquiry. The relevant portion of the Order passed by the Joint Collector, Ranga Reddy District reads as follows:

> "But the main requirement for regularization of sale under Section 5-A

> of the Act is that the claimant under Section 5-A should be in possession of the land. The entries in Pahanies do not establish the possession of petitioner. The Mandal Revenue Officer being a trial court has to conduct a local enquiry in detail about the physical possession of the claimant in the absence of his name in Revenue Records as occupant and also in confirmation of sale.
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> In view of the above, the order of the Revenue Divisional Officer passed in file No.C/3812/92, dated 21.01.1995 is upheld and the order of the Mandal Revenue Officer, dated 30.04.1992 in file No.C/303/92 is hereby set aside and the matter is remanded to the Mandal Revenue Officer for *de novo* enquiry duly issuing notice to all the concerned effected parties. Keeping in view of the status of the land and all other provisions of the Acts as referred in Rule 9(iv) of the ROR Rules, 1989."

Assailing the order of the Joint Collector, Ranga Reddy District in directing the Mandal Revenue Officer for *de novo* enquiry, the petitioner filed this writ petition.

3. Learned counsel appearing for the petitioner submits that agreement of sale stands out side the scope of the ROR Act and therefore, the very initiation of proceedings by Venkatachari for regularization of sale document are not valid and therefore, further continuance of the proceedings before the Mandal Revenue Officer is not in accordance with the provisions of Law. His further submission is that the land in dispute is no more an agricultural land and the same has been converted into non-agricultural land and thus, the land in question stands out side the scope of the provisions of the ROR Act.

4. *Per contra*, the learned counsel appearing for the respondents 5 to 8, who are the legal representatives of late S.Venkatachari, submits that the Joint Collector passed the orders without noticing the fact that S.Venkatachari died on 04.05.2001 and without bringing his legal representatives on record. It is also submitted by him that a part of the land has been sold to M/s.Lepra Leather Impex (India) Pvt. Ltd., and thereupon M/s.Lepra Leather Impex (India) Pvt. Ltd. availed certain loans from the Andhra Pradesh State Financial Corporation.

5. It appears many twists and turns have taken place with regard to the ownership of the land. The Joint Collector passed an order on 02.03.2002 ordering *de novo*

enquiry. It appears all the parties appeared before the Mandal Revenue Officer during the *de novo* enquiry. After one year and nine months of the passing of the order by the Joint Collector, the petitioner has filed this writ petition. Much emphasis has been laid on the decisions of this Court in ***K.R. Goud v. Bhavanarishi Co-operative House Building Society*** and in ***K.Seetharama Reddy v. Hassan Ali Khan*** by the counsel for the petitioner in support of his contention that agreement of sale stands out side the scope of the ROR Act. I am not prepared to give any finding on this aspect since the petitioner has been participated in the *de novo* enquiry, he has to raise all objections, which are raised before me, in the *de novo* enquiry. At this juncture, the learned counsel appearing for the petitioner tries to convince the Court that the counsel who represented the petitioner earlier died and therefore, he could not file the writ petition within reasonable time. Whereas it is submitted by the counsel appearing for the respondents 5 to 8 that the petitioner engaged another advocate in the *de novo* enquiry and therefore, the explanation offered by the petitioner for not filing the writ petition within reasonable time cannot be accepted. He placed on record a Photostat copy of the Vakalath filed on behalf of the petitioner before the Mandal Revenue Officer during *de novo* enquiry. One S.Narayana Reddy, Advocate, filed vakalath on behalf of the petitioner before the Mandal Revenue Officer on 22.02.2003. Such is the situation, I am not inclined to accept the explanation offered by the petitioner for not filing the writ petition within reasonable time.

6. In view of the above, this writ petition is disposed of giving liberty to the petitioner to contend the maintainability of the proceedings under the ROR Act before the primary authority. The Mandal Revenue Officer, Serilingampally Mandal, has to complete the enquiry as expeditiously as possible, preferably within three months from the date of receipt of a copy of the order. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 30th August, 2005.

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